

[ORAL ARGUMENT NOT SCHEDULED]  
No. 19-5130

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UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF  
COLUMBIA CIRCUIT

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NATIONAL WOMEN'S LAW CENTER, ET AL.,  
Plaintiffs - Appellees,  
v.  
OFFICE OF MANAGEMENT AND BUDGET, ET AL,  
Defendants-Appellants.

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**DEMOCRATIC WOMEN'S CAUCUS' AND INDIVIDUAL  
LEGISLATORS' MOTION FOR LEAVE TO FILE AMICUS BRIEF**

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On appeal from the U.S. District Court for the District of Columbia  
Case No. 17-2458 (Chutkan, J.)

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**CORPORATE DISCLOSURE STATEMENT**

Pursuant to Rule 26.1, the undersigned counsel certifies that the Democratic Women's Caucus and Individual Signing Legislators are not a nongovernmental entity with a parent corporation or a publicly held corporation that owns 10 percent or more of its stock.

Dated: October 25, 2019

Respectfully submitted,

/s/ Kimberly K. Evanson  
Kimberly K. Evanson

**CERTIFICATE AS TO PARTIES, RULINGS, RELATED CASES, AND  
AS TO PRACTICABILITY OF A SINGLE AMICUS BRIEF**

**A. Parties And *Amici*.**

All parties, intervenors, and *amici* appearing before the District Court are listed in the Brief for Appellants. To date, in addition to the Democratic Women's Caucus, the following entities are participating as *amici* in this Court:

Eagle Forum Education & Legal Defense Fund  
Chamber of Commerce  
HR Policy Association  
National Association of Manufacturers  
American Bankers Association  
American Society of Employers  
Associated Builders and Contractors  
Associated General Contractors of America  
Center for Workplace Compliance  
Institute for Workplace Equality  
National Federation of Independent Business  
National Retail Federation  
Restaurant Law Center  
Retail Litigation Center, Inc.  
Society for Human Resource Management

The Democratic Women's Caucus understands that several individuals and entities may file additional amicus briefs.

**B. Rulings Under Review.**

The Brief for Appellants identifies and describes the rulings under review.

**C. Related Cases.**

This case has not previously been before this Court, and counsel is not aware of any related case within the meaning of Circuit Rule 28(a)(1)(C).

**D. Practicability of a Single Amicus Brief in Support of Appellees.**

Amici the Democratic Women's Caucus and individual signing legislators submit this brief as current Congressional members focused on advancing the causes of economic opportunity and equality. They also offer a unique historical overview of the efforts of our Congressional forbearers to address pay disparity, current Congressional efforts to address pay disparity, the current status of pay disparity in the United States, and the importance of data transparency to combat pay disparity. The amicus brief therefore offers a unique perspective on the need for the Equal Employment Opportunity Commission to resume collecting data through the Employer Information Report. Accordingly, joining the briefs of the statisticians, economists, management researchers, employment analysts, non-profit organizations, or of the proposed former executive branch members is not practicable.

Dated: October 25, 2019

Respectfully submitted,

/s/ Kimberly K. Evanson  
Kimberly K. Evanson

**STATEMENT OF IDENTITY, INTEREST IN CASE, AND SOURCE OF  
AUTHORITY TO FILE**

Amicus the Democratic Women's Caucus is comprised of all ninety-one Democratic Women in the U.S. House of Representatives, including additional individual legislators whose signatures appear in the brief in support. The Democratic Women's Caucus exists to harness the collective power of the Democratic women in the House of Representatives in order to expand rights and opportunities for women and their families. Representatives Lois Frankel, Brenda L. Lawrence, and Jackie Speier serve as the Co-Chairs of the Caucus. Representatives Veronica Escobar and Representatives Deb Haaland serve as the Vice Chairs of the Caucus. Key pillars of the Democratic Women's Caucus' Policy Agenda are economic opportunity and equality. The Caucus and individual signing legislators believe all people deserve economic opportunity, security, and policies that recognize the demands of work and family, as well as dignity and equal treatment under the law. Accordingly, they are concerned about efforts to restrict or limit access to information regarding pay equity which would stymie the Caucus' efforts to advance economic opportunity and equality. The Caucus and individual legislators have concurrently filed their amicus brief with this motion.

Dated: October 25, 2019

Respectfully submitted,

/s/ Kymberly K. Evanson  
Kymberly K. Evanson

### **MOTION FOR LEAVE TO FILE AMICUS BRIEF**

Pursuant to FRAP 29(a)(3) and Circuit Rule 29(b), the Democratic Women's Caucus and the 60 individual legislators move for leave to participate as amicus curiae in this matter. As detailed below, the Democratic Women's Caucus and individual legislators will offer a unique perspective and distinct information that will aid the Court in the resolution of this important case. *See Voices for Choices v. Ill. Bell Tel. Co.*, 339 F.3d 542, 545 (7th Cir. 2003) (stating an amicus brief is appropriate where "the brief will assist the judges by presenting ideas, arguments, theories, insights, facts, or data that are not to be found in the parties' briefs."); *see also Jin v. Ministry of State Sec'y*, 557 F. Supp. 2d 131, 137 (D.D.C. 2008) (holding that an amicus brief is appropriate where "the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide" (quoting *Ryan v. CFTC*, 125 F.3d 1062, 1064 (7th Cir. 1997))).

Specifically, the Democratic Women's Caucus and individual legislators bring a unique perspective from the parties and other amici in this appeal. The Caucus is comprised of all ninety-one Democratic Women in the U.S. House of Representatives. The Democratic Women's Caucus exists to harness the collective power of the Democratic women in the House of Representatives in order to expand rights and opportunities for women and their families. The Democratic Women's Caucus' interest in this matter stems from key pillars of the Caucus' current Policy Agenda: economic

opportunity and equality. The Caucus believes all people deserve economic opportunity, security, and policies that recognize the demands of work and family, as well as dignity and equal treatment under the law. Accordingly, the Caucus is concerned about efforts to restrict or limit access to information regarding pay equity which would stymie the Caucus' efforts to advance economic opportunity and equality. If the Caucus members cannot evaluate the current landscape of pay disparity, they cannot effectively address it. Moreover, a number of individual legislators including many who are not members of the Caucus share similar interests and perspectives.

The Democratic Women's Caucus and legislators' amicus brief does not duplicate the arguments set forth by the parties or other amici. Instead, the amicus brief provides the Court with distinct information about relevant Legislative efforts by the Caucus' forbearers as well as current Congressional efforts to address pay disparity, and analyzes why these policy efforts alone have not been sufficient to close the gaps. The amicus brief also supports Appellee's arguments in favor of the need for the Equal Employment Opportunity Commission to resume collecting wage data with a unique overview of the history and current reality of pay disparity in the United States, focusing on why data in particular is necessary to combat it.

Participation as amicus by the Democratic Women's Caucus and individual legislators will aid the Court in the adjudication of this appeal. The Caucus and legislators therefore respectfully request their motion for leave to participate as amici be granted.

Dated: October 25, 2019

Respectfully submitted,

/s/ Kimberly K. Evanson

Kymerly K. Evanson



**CERTIFICATE OF COMPLIANCE**

Pursuant to FRAPP 27 (d)(2)(A), I certify that this brief contains 504 words, including footnotes.

Dated: October 25, 2019

Respectfully submitted,

/s/ Kimberly K. Evanson  
Kimberly K. Evanson

**CERTIFICATE OF SERVICE**

I hereby certify that on this 26th day of August, 2019, I have caused the foregoing document to be served on the parties' counsel via the Court's CM/ECF System.

Dated: October 25, 2019

Respectfully submitted,

/s/ Kimberly K. Evanson

Kymerly K. Evanson